

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 16

AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-2-6.5-9, AS ADDED BY P.L.107-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) To establish or operate a commercial driver training school, the commercial driver training school must obtain a commercial driver training school license from the institute in the manner and form prescribed by the institute.

(b) Subject to subsections (c) and (d), the institute shall adopt rules under IC 4-22-2 that state the requirements for obtaining a commercial driver training school license, including the following:

- (1) Location of the commercial driver training school.
- (2) Equipment required.
- (3) Courses of instruction.
- (4) Instructors.
- (5) Previous records of the commercial driver training school and instructors.
- (6) Financial statements.
- (7) Schedule of fees and charges.
- (8) Character and reputation of the operators and instructors.
- (9) Insurance in the amount and with the provisions the institute considers necessary to adequately protect the interests of the public.



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(10) Other matters the institute prescribes for the protection of the public.

(c) The rules adopted under subsection (b) must permit a licensed commercial driver training school to provide classroom training during which an instructor is present in a county outside the county where the commercial driver training school is located to the students of:

- (1) a school corporation (as defined in IC 36-1-2-17);
- (2) a nonpublic secondary school that voluntarily becomes accredited under IC 20-19-2-8;
- (3) a nonpublic secondary school recognized under IC 20-19-2-10;
- (4) a state educational institution; or
- (5) a nonaccredited nonpublic school.

However, the rules must provide that a licensed commercial driver training school may provide classroom training in an entity listed in subdivisions (1) through (3) only if the governing body of the entity approves the delivery of the training to its students.

(d) Notwithstanding subsection (b)(3), the rules adopted under subsection (b) must provide that the classroom instruction and the practice driving instruction required for students of a commercial driver training school be the same as the rules adopted by the state board of education under IC 20-19-2-8(4) concerning the standards for driver education programs, including classroom instruction and practice driving.

(e) The rules adopted under subsection (b) must provide, effective July 1, 2010, that the classroom training part of driver education instruction may not be provided to a child less than fifteen (15) years and one hundred eighty (180) days of age.

SECTION 2. IC 9-13-2-177.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 177.3. "Telecommunications device", for purposes of IC 9-24-11-3.3, has the meaning set forth in IC 9-24-11-0.5.**

SECTION 3. IC 9-24-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. Except as otherwise provided in this article, the bureau shall issue an operator's license to an individual who meets the following conditions:

- (1) Satisfies the age requirements ~~described~~ **set forth** in section 2 **or 2.5** of this chapter.
- (2) Makes proper application to the bureau under IC 9-24-9 upon a form prescribed by the bureau. **Effective July 1, 2010, the form must include a verification concerning the number of hours of**

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supervised driving practice that the individual has completed if the individual is required under section 2.5 of this chapter to complete a certain number of hours of supervised driving practice in order to receive an operator's license.

(3) Satisfactorily passes the examination and tests required for issuance of an operator's license under IC 9-24-10.

(4) Pays the fee prescribed by IC 9-29-9.

SECTION 4. IC 9-24-3-2, AS AMENDED BY P.L.156-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. **(a)** Except as provided in section 3 of this chapter, an individual must meet one (1) of the following conditions to receive an operator's license:

(1) The applicant meets the following conditions:

(A) Is at least sixteen (16) years and thirty (30) days of age.

(B) Has held a valid learner's permit at least sixty (60) days.

(C) Has obtained an instructor's certification that the applicant has satisfactorily completed an approved driver education course.

(D) Has passed the required examination.

(2) The applicant meets the following conditions:

(A) Is at least sixteen (16) years and one hundred eighty (180) days of age.

(B) Has held a valid learner's permit for at least sixty (60) days.

(C) Has passed the required examination.

(3) The applicant meets the following conditions:

(A) Is at least sixteen (16) years and one hundred eighty (180) days of age.

(B) Has, within the past three (3) years, held an Indiana operator's, chauffeur's, or public passenger chauffeur's license that has not been suspended or revoked.

(C) Passes the required examination.

(4) The applicant meets the following conditions:

(A) Is at least sixteen (16) years and one hundred eighty (180) days of age.

(B) Has previously been a nonresident of Indiana but who, at the time of application, qualifies as an Indiana resident.

(C) Has held for at least one (1) year an unrevoked operator's, chauffeur's, or public passenger chauffeur's license in the state, district, or county in which the applicant has been a resident.

(D) Passes the required examination.

(b) This section expires June 30, 2010. The expiration of this

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section does not affect the validity of an operator's license issued under this section.

SECTION 5. IC 9-24-3-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2.5. (a) This section applies beginning July 1, 2010.

(b) Except as provided in section 3 of this chapter, an individual must satisfy the requirements set forth in one (1) of the following subdivisions to receive an operator's license:

(1) The individual meets the following conditions:

(A) Is at least sixteen (16) years and one hundred eighty (180) days of age.

(B) Has held a valid learner's permit for at least one hundred eighty (180) days.

(C) Obtains an instructor's certification that the individual has satisfactorily completed an approved driver education course.

(D) Passes the required examination.

(E) Completes at least fifty (50) hours of supervised driving practice, of which at least ten (10) hours are nighttime driving, with:

(i) a licensed instructor or a licensed driver who is at least twenty-five (25) years of age; or

(ii) the spouse of the individual who is at least twenty-one (21) years of age.

(2) The individual meets the following conditions:

(A) Is at least sixteen (16) years and two hundred seventy (270) days of age.

(B) Has held a valid learner's permit for at least one hundred eighty (180) days.

(C) Passes the required examination.

(D) Completes at least fifty (50) hours of supervised driving practice, of which at least ten (10) hours are nighttime driving, with:

(i) a licensed instructor or a licensed driver who is at least twenty-five (25) years of age; or

(ii) the spouse of the individual who is at least twenty-one (21) years of age.

(3) The individual meets the following conditions:

(A) Is at least sixteen (16) years and one hundred eighty (180) days of age but less than eighteen (18) years of age.

(B) Has previously been a nonresident of Indiana, but, at the time of application, qualifies as an Indiana resident.

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(C) Holds an unrevoked driver's license, excluding a learner's permit or the equivalent, in the state or a combination of states in which the individual formerly resided for at least one hundred eighty (180) days.

(D) Passes the required examination.

(4) The individual meets the following conditions:

(A) Is at least eighteen (18) years of age.

(B) Has previously been a nonresident of Indiana but, at the time of application, qualifies as an Indiana resident.

(C) Has held an unrevoked operator's, chauffeur's, commercial driver's, or public passenger chauffeur's license from the state of prior residence.

(D) Passes the required examination.

SECTION 6. IC 9-24-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. **(a) This subsection expires June 30, 2010.** The bureau shall issue a learner's permit to an individual who meets the following conditions:

(1) Is at least fifteen (15) years of age.

(2) If less than eighteen (18) years of age, is not ineligible under IC 9-24-2-1.

(3) Is enrolled in an approved driver education course.

(b) This subsection applies beginning July 1, 2010. The bureau shall issue a learner's permit to an individual who meets the following conditions:

(1) Is at least fifteen (15) years and one hundred eighty (180) days of age.

(2) If less than eighteen (18) years of age, is not ineligible under IC 9-24-2-1.

(3) Is enrolled in an approved driver education course.

SECTION 7. IC 9-24-11-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 0.5. **As used in this chapter, "telecommunications device" means an electronic or digital telecommunications device.**

SECTION 8. IC 9-24-11-3, AS AMENDED BY P.L.184-2007, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **(a) This section applies to a probationary operator's license issued before July 1, 2009.**

~~(a)~~ **(b)** A license issued to an individual less than eighteen (18) years of age is a probationary license.

~~(b)~~ **(c)** An individual holds a probationary license subject to the following conditions:

(1) Except as provided in IC 31-37-3, the individual may not

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operate a motor vehicle during the curfew hours specified in IC 31-37-3-2.

(2) During the ninety (90) days following the issuance of the probationary license, the individual may not operate a motor vehicle in which there are passengers unless another individual who:

- (A) is at least twenty-one (21) years of age and ~~(B)~~ holds a valid operator's license issued under this article; **or**
(B) is the parent, guardian, or stepparent of the operator who is at least twenty-one (21) years of age;

is present in the front seat of the motor vehicle.

(3) The individual may operate a motor vehicle only if the individual and each occupant of the motor vehicle has a safety belt properly fastened about the occupant's body at all times when the motor vehicle is in motion.

~~(c)~~ (d) An individual who holds a probationary license issued under this section may receive an operator's license, a chauffeur's license, a public passenger chauffeur's license, or a commercial driver's license when the individual is at least eighteen (18) years of age.

~~(d)~~ (e) Except as provided in subsection ~~(c)~~; (f), a probationary license issued under this section:

- (1) expires at midnight of the twenty-first birthday of the holder; and
- (2) may not be renewed.

~~(e)~~ (f) A probationary license issued under this section to an individual who complies with IC 9-24-9-2.5(5) through IC 9-24-9-2.5(9) expires:

- (1) at midnight one (1) year after issuance if there is no expiration date on the authorization granted to the individual to remain in the United States; or
- (2) if there is an expiration date on the authorization granted to the individual to remain in the United States, the earlier of the following:
 - (A) At midnight of the date the authorization to remain in the United States expires.
 - (B) At midnight of the twenty-first birthday of the holder.

SECTION 9. IC 9-24-11-3.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 3.3. (a) This section applies to a probationary operator's license issued after June 30, 2009.**

(b) A license issued to an individual less than eighteen (18) years of age is a probationary license. An individual holds a probationary

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license subject to the following conditions:

(1) Except as provided in subdivision (3), the individual may not operate a motor vehicle from 10 p.m. until 5 a.m. of the following morning during the first one hundred eighty (180) days after issuance of the probationary license.

(2) Except as provided in subdivision (3), after one hundred eighty (180) days after issuance of the probationary license, and until the individual becomes eighteen (18) years of age, an individual may not operate a motor vehicle:

(A) between 1 a.m. and 5 a.m. on a Saturday or Sunday;

(B) after 11 p.m. on Sunday, Monday, Tuesday, Wednesday, or Thursday; or

(C) before 5 a.m. on Monday, Tuesday, Wednesday, Thursday, or Friday.

(3) The individual may operate a motor vehicle during the periods described in subdivisions (1) and (2) if the individual operates the motor vehicle while:

(A) participating in, going to, or returning from:

(i) lawful employment;

(ii) a school sanctioned activity; or

(iii) a religious event; or

(B) accompanied by a licensed driver at least twenty-five (25) years of age.

(4) The individual may not operate a motor vehicle while using a telecommunications device until the individual becomes eighteen (18) years of age unless the telecommunications device is being used to make a 911 emergency call.

(5) Except as provided in subdivision (6), during the one hundred eighty (180) days after the issuance of the probationary license, the individual may not operate a motor vehicle in which there are passengers until the individual becomes eighteen (18) years of age unless another individual:

(A) who:

(i) is at least twenty-five (25) years of age; and

(ii) holds a valid operator's, chauffeur's, public passenger chauffeur's, or commercial driver's license issued under this article;

(B) who is a certified driver education instructor; or

(C) who is the parent, guardian, or stepparent of the operator who is at least twenty-one (21) years of age;

is present in the front seat of the motor vehicle.

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(6) The individual may operate a motor vehicle and transport:

- (A) a child of the individual;**
- (B) a sibling of the individual;**
- (C) a child and a sibling of the individual;**
- (D) the spouse of the individual; or**
- (E) a child and the spouse of the individual;**

without another accompanying individual present in the motor vehicle.

(7) The individual may operate a motor vehicle only if the individual and each occupant of the motor vehicle:

- (A) are properly restrained by a properly fastened safety belt; or**
- (B) if the occupant is a child, the child must be properly fastened and restrained in a child restraint system according to the manufacturer's instructions under IC 9-19-11;**

properly fastened about the occupant's body at all times when the motor vehicle is in motion.

(c) An individual who holds a probationary license issued under this section may receive an operator's license, a chauffeur's license, a public passenger chauffeur's license, or a commercial driver's license when the individual is at least eighteen (18) years of age.

(d) Except as provided in IC 9-24-12-1(e), a probationary license issued under this section:

- (1) expires at midnight of the date thirty (30) days after the twenty-first birthday of the holder; and**
- (2) may not be renewed.**

SECTION 10. IC 9-24-12-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 0.5. This section applies beginning January 1, 2010. A learner's permit issued under this article expires two (2) years after the date of issuance.

SECTION 11. IC 9-24-12-1, AS AMENDED BY P.L.184-2007, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Except as provided in ~~subsection~~ **subsections (b) and (d) and section 10 of this chapter, an operator's license issued under this article before January 1, 2006, expires at midnight of the birthday of the holder that occurs four (4) years following the date of issuance.**

(b) Except as provided in sections 10, 11, and 12 of this chapter, an operator's license issued to an applicant who is at least seventy-five (75) years of age expires at midnight of the birthday of the holder that

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occurs three (3) years following the date of issuance.

(c) Except as provided in subsections (b) and (d) and sections 10, 11, and 12 of this chapter, ~~after December 31, 2005~~, an operator's license issued under this article expires at midnight of the birthday of the holder that occurs six (6) years following the date of issuance.

(d) A probationary operator's license issued under IC 9-24-11-3 **or IC 9-24-11-3.3** expires at midnight of the twenty-first birthday of the holder.

(e) A probationary license issued under IC 9-24-11-3.3 to an individual who complies with IC 9-24-9-2.5(5) through IC 9-24-9-2.5(9) expires:

(1) at midnight one (1) year after issuance if there is no expiration date on the authorization granted to the individual to remain in the United States; or

(2) if there is an expiration date on the authorization granted to the individual to remain in the United States, the earlier of the following:

(A) At midnight of the date the authorization to remain in the United States expires.

(B) At midnight of the twenty-first birthday of the holder.

SECTION 12. IC 9-29-9-2, AS AMENDED BY P.L.156-2006, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The fee for an operator's license issued under IC 9-24-3 or renewed under IC 9-24-12 to an individual who is:

(1) less than seventy-five (75) years of age is nine dollars (\$9); and

(2) at least seventy-five (75) years of age is six dollars (\$6).

(b) ~~After June 30, 2006~~, The fee for a probationary license issued under ~~IC 9-24-11-3(d)~~ **IC 9-24-11-3 or IC 9-24-11-3.3** is six dollars (\$6).

SECTION 13. IC 9-30-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) If during any twelve (12) month period a person has committed moving traffic violations for which the person has:

(1) been convicted of at least two (2) traffic misdemeanors;

(2) had at least two (2) traffic judgments entered against the person; or

(3) been convicted of at least one (1) traffic misdemeanor and has had at least one (1) traffic judgment entered against the person;

the bureau may require the person to attend and satisfactorily complete a defensive driving school program. The person shall pay all applicable fees required by the bureau.

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(b) This subsection applies to an individual who holds a probationary license under IC 9-24-11-3 **or IC 9-24-11-3.3** or is less than eighteen (18) years of age. An individual is required to attend and satisfactorily complete a defensive driving school program if either of the following occurs at least twice or if both of the following have occurred **when the individual was less than eighteen (18) years of age:**

- (1) The individual has been convicted of a moving traffic offense (as defined in section 14(a) of this chapter), other than an offense that solely involves motor vehicle equipment.
- (2) The individual has been the operator of a motor vehicle involved in an accident for which a report is required to be filed under IC 9-26-2.

The individual shall pay all applicable fees required by the bureau.

(c) The bureau may suspend the driving license of any person who:

- (1) fails to attend a defensive driving school program; or
- (2) fails to satisfactorily complete a defensive driving school program;

as required by this section.

(d) Notwithstanding IC 33-37-4-2, any court may suspend one-half (1/2) of each applicable court cost for which a person is liable due to a traffic violation if the person enrolls in and completes a defensive driving school or a similar school conducted by an agency of the state or local government.

SECTION 14. IC 20-19-2-8, AS AMENDED BY P.L.146-2008, SECTION 450, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) In addition to any other powers and duties prescribed by law, the state board shall adopt rules under IC 4-22-2 concerning, but not limited to, the following matters:

- (1) The designation and employment of the employees and consultants necessary for the department. The state board shall fix the compensation of employees of the department, subject to the approval of the budget committee and the governor under IC 4-12-2.
- (2) The establishment and maintenance of standards and guidelines for media centers, libraries, instructional materials centers, or any other area or system of areas in a school where a full range of information sources, associated equipment, and services from professional media staff are accessible to the school community. With regard to library automation systems, the state board may only adopt rules that meet the standards established by the state library board for library automation systems under

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IC 4-23-7.1-11(b).

(3) The establishment and maintenance of standards for student personnel and guidance services.

(4) The establishment and maintenance of minimum standards for driver education programs (including classroom instruction and practice driving) and equipment. Classroom instruction standards established under this subdivision must include instruction about:

(A) railroad-highway grade crossing safety; and

(B) the procedure for participation in the human organ donor program;

and must provide, effective July 1, 2010, that the classroom instruction may not be provided to a child less than fifteen (15) years and one hundred eighty (180) days of age.

(5) The inspection of all public schools in Indiana to determine the condition of the schools. The state board shall establish standards governing the accreditation of public schools.

Observance of:

(A) IC 20-31-4;

(B) IC 20-28-5-2;

(C) IC 20-28-6-3 through IC 20-28-6-7;

(D) IC 20-28-9-7 and IC 20-28-9-8;

(E) IC 20-28-11; and

(F) IC 20-31-3, IC 20-32-4, IC 20-32-5, IC 20-32-6, and IC 20-32-8;

is a prerequisite to the accreditation of a school. Local public school officials shall make the reports required of them and otherwise cooperate with the state board regarding required inspections. Nonpublic schools may also request the inspection for classification purposes. Compliance with the building and site guidelines adopted by the state board is not a prerequisite of accreditation.

(6) Subject to section 9 of this chapter, the adoption and approval of textbooks under IC 20-20-5.

(7) The distribution of funds and revenues appropriated for the support of schools in the state.

(8) The state board may not establish an accreditation system for nonpublic schools that is less stringent than the accreditation system for public schools.

(9) A separate system for recognizing nonpublic schools under IC 20-19-2-10. Recognition of nonpublic schools under this subdivision constitutes the system of regulatory standards that apply to nonpublic schools that seek to qualify for the system of

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recognition.

(10) The establishment and enforcement of standards and guidelines concerning the safety of students participating in cheerleading activities.

(b) Before final adoption of any rule, the state board shall make a finding on the estimated fiscal impact that the rule will have on school corporations.

SECTION 15. IC 26-2-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) A person who knowingly violates this chapter commits a Class C infraction. Each violation of this chapter constitutes a separate infraction.

(b) In addition to any other available legal remedy, a person who violates the terms of an injunction issued under section 5 of this chapter commits a Class A infraction. Each violation of the terms of an injunction issued under section 5 of this chapter constitutes a separate infraction. Whenever the court determines that the terms of an injunction issued under section 5 of this chapter have been violated, the court shall award reasonable costs to the state.

(c) Notwithstanding ~~IC 34-28-5-1(a)~~, IC 34-28-5-1(b), the prosecuting attorney or the attorney general in the name of the state may bring an action to petition for the recovery of the penalties outlined in this section.

SECTION 16. IC 33-39-1-8, AS AMENDED BY P.L.234-2007, SECTION 168, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) After June 30, 2005, this section does not apply to a person who:

- (1) holds a commercial driver's license; and
- (2) has been charged with an offense involving the operation of a motor vehicle in accordance with the federal Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law 106-159, 113 Stat. 1748).

(b) This section does not apply to a person arrested for or charged with:

- (1) an offense under IC 9-30-5-1 through IC 9-30-5-5; or
- (2) if a person was arrested or charged with an offense under IC 9-30-5-1 through IC 9-30-5-5, an offense involving:
 - (A) intoxication; or
 - (B) the operation of a motor vehicle;

if the offense involving intoxication or the operation of a motor vehicle was part of the same episode of criminal conduct as the offense under IC 9-30-5-1 through IC 9-30-5-5.

(c) This section does not apply to a person:

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(1) who is arrested for or charged with an offense under:**(A) IC 7.1-5-7-7(a), if the alleged offense occurred while the person was operating a motor vehicle;****(B) IC 9-30-4-8(a), if the alleged offense occurred while the person was operating a motor vehicle;****(C) IC 35-42-2-2(c)(1);****(D) IC 35-42-2-4(b)(1); or****(E) IC 35-43-1-2(a), if the alleged offense occurred while the person was operating a motor vehicle; and****(2) who held a probationary license (as defined in IC 9-24-11-3(b) or IC 9-24-11-3.3(b)) and was less than eighteen (18) years of age at the time of the alleged offense.****(c) (d)** A prosecuting attorney may withhold prosecution against an accused person if:**(1) the person is charged with a misdemeanor;****(2) the person agrees to conditions of a pretrial diversion program offered by the prosecuting attorney;****(3) the terms of the agreement are recorded in an instrument signed by the person and the prosecuting attorney and filed in the court in which the charge is pending; and****(4) the prosecuting attorney electronically transmits information required by the prosecuting attorneys council concerning the withheld prosecution to the prosecuting attorneys council, in a manner and format designated by the prosecuting attorneys council.****(d) (e)** An agreement under subsection **(c) (d)** may include conditions that the person:**(1) pay to the clerk of the court an initial user's fee and monthly user's fees in the amounts specified in IC 33-37-4-1;****(2) work faithfully at a suitable employment or faithfully pursue a course of study or career and technical education that will equip the person for suitable employment;****(3) undergo available medical treatment or counseling and remain in a specified facility required for that purpose;****(4) support the person's dependents and meet other family responsibilities;****(5) make restitution or reparation to the victim of the crime for the damage or injury that was sustained;****(6) refrain from harassing, intimidating, threatening, or having any direct or indirect contact with the victim or a witness;****(7) report to the prosecuting attorney at reasonable times;****(8) answer all reasonable inquiries by the prosecuting attorney****C
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and promptly notify the prosecuting attorney of any change in address or employment; and

(9) participate in dispute resolution either under IC 34-57-3 or a program established by the prosecuting attorney.

~~(c)~~ **(f)** An agreement under subsection ~~(c)(2)~~ **(d)(2)** may include other provisions reasonably related to the defendant's rehabilitation, if approved by the court.

~~(f)~~ **(g)** The prosecuting attorney shall notify the victim when prosecution is withheld under this section.

~~(g)~~ **(h)** All money collected by the clerk as user's fees under this section shall be deposited in the appropriate user fee fund under IC 33-37-8.

~~(h)~~ **(i)** If a court withholds prosecution under this section and the terms of the agreement contain conditions described in subsection ~~(d)(6)~~ **(e)(6)**:

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

SECTION 17. IC 34-28-5-1, AS AMENDED BY P.L.200-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. **(a) As used in this section, "probationary license" refers to a license described in IC 9-24-11-3(b) or IC 9-24-11-3.3(b).**

~~(a)~~ **(b)** An action to enforce a statute defining an infraction shall be brought in the name of the state of Indiana by the prosecuting attorney for the judicial circuit in which the infraction allegedly took place. However, if the infraction allegedly took place on a public highway (as defined in IC 9-25-2-4) that runs on and along a common boundary shared by two (2) or more judicial circuits, a prosecuting attorney for any judicial circuit sharing the common boundary may bring the action.

~~(b)~~ **(c)** An action to enforce an ordinance shall be brought in the name of the municipal corporation. The municipal corporation need not prove that it or the ordinance is valid unless validity is controverted by affidavit.

~~(c)~~ **(d)** Actions under this chapter (or IC 34-4-32 before its repeal):

(1) shall be conducted in accordance with the Indiana Rules of Trial Procedure; and

(2) must be brought within two (2) years after the alleged conduct or violation occurred.

~~(d)~~ **(e)** The plaintiff in an action under this chapter must prove the commission of an infraction or ordinance violation by a preponderance

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of the evidence.

~~(e)~~ (f) The complaint and summons described in IC 9-30-3-6 may be used for any infraction or ordinance violation.

~~(f)~~ (g) **Subsection (h) does not apply to an individual holding a probationary license who is alleged to have committed an infraction under any of the following when the individual was less than eighteen (18) years of age at the time of the alleged offense:**

IC 9-19

IC 9-21

IC 9-24

IC 9-25

IC 9-26

IC 9-30-5

IC 9-30-10

IC 9-30-15.

(h) This subsection does not apply to an offense or violation under IC 9-24-6 involving the operation of a commercial motor vehicle. The prosecuting attorney or the attorney for a municipal corporation may establish a deferral program for deferring actions brought under this section. Actions may be deferred under this section if:

- (1) the defendant in the action agrees to conditions of a deferral program offered by the prosecuting attorney or the attorney for a municipal corporation;
- (2) the defendant in the action agrees to pay to the clerk of the court an initial user's fee and monthly user's fee set by the prosecuting attorney or the attorney for the municipal corporation in accordance with IC 33-37-4-2(e);
- (3) the terms of the agreement are recorded in an instrument signed by the defendant and the prosecuting attorney or the attorney for the municipal corporation;
- (4) the defendant in the action agrees to pay a fee of seventy dollars (\$70) to the clerk of court if the action involves a moving traffic offense (as defined in IC 9-13-2-110);
- (5) the agreement is filed in the court in which the action is brought; and
- (6) if the deferral program is offered by the prosecuting attorney, the prosecuting attorney electronically transmits information required by the prosecuting attorneys council concerning the withheld prosecution to the prosecuting attorneys council, in a manner and format designated by the prosecuting attorneys council.

When a defendant complies with the terms of an agreement filed under

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this subsection (or IC 34-4-32-1(f) before its repeal), the prosecuting attorney or the attorney for the municipal corporation shall request the court to dismiss the action. Upon receipt of a request to dismiss an action under this subsection, the court shall dismiss the action. An action dismissed under this subsection (or IC 34-4-32-1(f) before its repeal) may not be refiled.

~~(g)~~ (i) If a judgment is entered against a defendant in an action to enforce an ordinance, the defendant may perform community restitution or service (as defined in IC 35-41-1-4.6) instead of paying a monetary judgment for the ordinance violation as described in section 4(e) of this chapter if:

(1) the:

(A) defendant; and

(B) attorney for the municipal corporation;

agree to the defendant's performance of community restitution or service instead of the payment of a monetary judgment;

(2) the terms of the agreement described in subdivision (1):

(A) include the amount of the judgment the municipal corporation requests that the defendant pay under section 4(e) of this chapter for the ordinance violation if the defendant fails to perform the community restitution or service provided for in the agreement as approved by the court; and

(B) are recorded in a written instrument signed by the defendant and the attorney for the municipal corporation;

(3) the agreement is filed in the court where the judgment was entered; and

(4) the court approves the agreement.

If a defendant fails to comply with an agreement approved by a court under this subsection, the court shall require the defendant to pay up to the amount of the judgment requested in the action under section 4(e) of this chapter as if the defendant had not entered into an agreement under this subsection.

SECTION 18. IC 34-28-5-4, AS AMENDED BY P.L.200-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) A judgment of up to ten thousand dollars (\$10,000) may be entered for a violation constituting a Class A infraction.

(b) A judgment of up to one thousand dollars (\$1,000) may be entered for a violation constituting a Class B infraction.

(c) A judgment of up to five hundred dollars (\$500) may be entered for a violation constituting a Class C infraction.

(d) A judgment of up to twenty-five dollars (\$25) may be entered for

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a violation constituting a Class D infraction.

(e) Subject to section ~~1(g)~~ 1(i) of this chapter, a judgment:

- (1) up to the amount requested in the complaint; and
- (2) not exceeding any limitation under IC 36-1-3-8;

may be entered for an ordinance violation.

SECTION 19. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 5-2-6.5-9(e), as added by this act, the Indiana criminal justice institute established by IC 5-2-6-3 shall, under interim written guidelines approved by the executive director of the Indiana criminal justice institute, provide that after June 30, 2010, the classroom training provided by licensed commercial driver training schools may not be provided to a child less than fifteen (15) years and one hundred eighty (180) days of age.

(b) This SECTION expires on the earlier of the following:

- (1) The date rules are adopted under IC 5-2-6.5-9(e), as added by this act.**
- (2) December 31, 2011.**

SECTION 20. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 20-19-2-8(a)(4), as amended by this act, the Indiana state board of education shall, under interim written guidelines approved by the state superintendent of public instruction, provide that after June 30, 2010, the classroom training provided by public schools and private schools under the authority of the department of education may not be provided to a child less than fifteen (15) years and one hundred eighty (180) days of age.

(b) This SECTION expires on the earlier of the following:

- (1) The date rules are adopted under IC 20-19-2-8(a)(4), as amended by this act.**
- (2) December 31, 2011.**

SECTION 21. [EFFECTIVE UPON PASSAGE] (a) As used in this section, "committee" refers to the interim study committee on driver education established by this SECTION.

(b) There is established the interim study committee on driver education. The committee shall study:

- (1) the administration of driver education by the bureau of motor vehicles and the department of education;**
- (2) standards for an Internet component of driver instruction;**
- (3) standards for a classroom component of driver instruction;**
- (4) penalties for instructional providers that fail to follow the standards for instruction driving experience;**

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(5) statistics for moving violations accrued by individuals less than eighteen (18) years of age who had:

- (A) taken driver education with a classroom component of driver instruction;
- (B) taken an Internet component of driver instruction; and
- (C) no formal driver education;

(6) the effectiveness of driver education courses on the accident rates of young drivers; and

(7) the standards and curriculum content for an effective driver education program.

(c) Not later than November 1 in the years 2009 through 2014, the state police department shall make a written report to the:

- (1) legislative council; and
- (2) governor;

concerning motor vehicle accidents and fatalities resulting from motor vehicle accidents in the preceding year involving operators of a motor vehicle who were at least fifteen (15) years and one hundred eighty (180) days of age and less than twenty (20) years of age. The report to the legislative council must be in an electronic format under IC 5-14-6.

(d) The committee shall operate under the policies governing study committees adopted by the legislative council.

(e) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including final reports.

(f) This SECTION expires December 31, 2014.

SECTION 22. An emergency is declared for this act.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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